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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/642,627

08/19/2003

Rolf Stefani

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02/07/2007

OLIFF & BERRIDGE, PLC
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EXAMINER

DESIR, PIERRE LOUIS

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

02/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/642,627

Applicant(s)

STEFANI ET AL.

Examiner

Pierre-Louis Desir

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-20 and 22-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

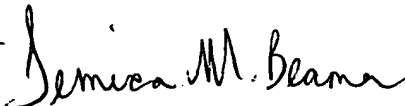
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.


**TEMICA BEAMER
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue that Nelson is silent regarding a user, employing at least one portable control and display unit to transmit and receive, messages, consisting of data, voice, and video communication, from a remote operation center via the ACARS transceiver.

Examiner respectfully disagrees with Applicants. first examiner wants to respectfully remind applicants one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Examiner asserts that Monroe discloses a system comprising at least one portable control and display unit which transmits and receive messages comprising of data communication, voice communication and video communication, and wherein a user employs the at least one portable control and display unit to transmit messages (comprising the at least one of data communication, voice communication or video communication) to and receive messages from a remote operations center via a transceiver communicating through a VHF radio onboard the aircraft (i.e., the combined data and video outputs and pilot user interface inputs are then distributed to the cockpit module via port 105, to a video display 72, and audio 75. A control panel 73 may be provided to the pilot for controlling distribution of information to the cockpit, and for indication of emergency conditions. Cellular transmission is via the multi communications controller from output port 106. AirCell as shown units provide both air and ground operation modes through the one port. An AN/ARC 182(V) VHF-UHF AM/FM Radio Set is illustrated. LAN data may be introduced to the module and output from the module via LAN port 110 and the distribution hub/switch 112. Digital Cameras with IP connections (not shown) also interface to the hub/switch 112. This distributes the outgoing signals to one or more "black box" data IP recorder 114, to a wired LAN interface 116 for onboard LAN devices, to access point 124 for use by onboard wireless devices, to access point 118 for use by devices external to the transport. Portable, wireless monitors or PDA 120, 122 or laptops (not shown) as may be carried by onboard air marshal, by way of example, receive and transmit data via the access point 124 that is also in communication with the hub/switch 112. The recorder is adapted for recording any IP data, including but not limited to encoded video from the cockpit video, radar, MDF and the like, as well as surveillance camera video, encoded audio such as radio receptions into the aircraft, automated flight systems and alarms, open microphones throughout the aircraft and in the cockpit, encoded aircraft instrumentation data such as ARINC-429 formatted data, analog and discrete inputs and the like, and aircraft bus data such as ARINC-573, ARINC-717 and the like. The Air Marshal can have video, data and voice communications utilizing a standard wired or wireless earphone/microphone unit in connection with the laptop computer, PDA or equivalent (see figs. 6 and 9, and paragraphs 35, 96, and 459), Monroe does not specifically disclose a system comprising an Aircraft Communication and Reporting System (ACARS) transceiver located on the aircraft to send and receive, and wherein messages are received and transmitted from a remote operations center via the ACARS transceiver. Nelson discloses a system wherein an ARINC-429 bus interface can be used by a server to receive data from a plurality of on-board management systems and to allow access to an additional bearer service via an Aircraft Communications Addressing and Reporting System (ACARS) messaging capabilities or Satellite Data Unit (SDU) if so chosen. The server can also receive data transmitted from the ground via ACARS using an interface, wherein additional receiving ports can be added as need to provide further management applications to monitor data from on-board sensors via the ARINC-429 bus interface 145 (see paragraph 42)

Therefore, it would have been obvious to one skilled in the art to combine the ACARS system as described by Nelson with the system as described by Monroe, which described the use of portable terminals that may be carried onboard by air marshals, to send or receive data. Also, Examiner wants to point out that Applicants are not arguing that the references cannot be combined. In the previous Office action, the examiner has combined two analogous references.

Also, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

As related to Heppe, Applicants argue that Heppe teaches that ACARS would be unsuitable for the application as described in the subject matter. As such, continue applicants, Heppe does not teach, nor would it have suggested, the employment of ACARS, as described in the application.

Examiner respectfully disagrees. As described in the previous Office action, Heppe discloses that commercial aircraft commonly transmit and receive air/ground digital information via radio equipment operating in the Very High Frequency (VHF) portion of the radio spectrum, on 25 kHz channels, using a data protocol known as the Aircraft Communications Addressing and Reporting System (ACARS). The airborne equipment, ground station equipment and extended ground network all cooperate to support the end-to-end transmission and reception of digital information between an aeronautical mobile station and a ground-based end-system (see paragraph 3).

If Applicants believe that the combination is not proper, Examiner respectfully invites Applicants to argue so. Nowhere in Heppe's is there a reference to ACARS being unsuitable for the system described in the claims.

Therefore, the rejection stands.

